

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

see form PCT/ISA/220

PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

		Date of mailing (day/month/year) see form PCT/ISA/210 (second sheet)
Applicant's or agent's file reference see form PCT/ISA/220		FOR FURTHER ACTION See paragraph 2 below
International application No. PCT/EP2004/051279	International filing date (day/month/year) 28.06.2004	Priority date (day/month/year) 01.07.2003
International Patent Classification (IPC) or both national classification and IPC H04L12/24, H04J3/16, H04L12/46		
Applicant MARCONI UK INTELLECTUAL PROPERTY		

1. This opinion contains indications relating to the following items:

- Box No. I Basis of the opinion
- Box No. II Priority
- Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- Box No. IV Lack of unity of invention
- Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- Box No. VI Certain documents cited
- Box No. VII Certain defects in the international application
- Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized Officer Bernardini, A Telephone No. +31 70 340-4209
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IAP20 Rec'd PCT/PTO 28 DEC 2005

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 a sequence listing
 table(s) related to the sequence listing
 - b. format of material:
 in written format
 in computer readable form
 - c. time of filing/furnishing:
 contained in the international application as filed.
 filed together with the international application in computer readable form.
 furnished subsequently to this Authority for the purposes of search.
3. In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/EP2004/051279

Box No. II Priority

1. The following document has not been furnished:

- copy of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(a)).
- translation of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.

2. This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.
3. It has not been possible to consider the validity of the priority claim because a copy of the priority document was not available to the ISA at the time that the search was conducted (Rule 17.1). This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.
4. Additional observations, if necessary:

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-19
	No: Claims	
Inventive step (IS)	Yes: Claims	
	No: Claims	1-19
Industrial applicability (IA)	Yes: Claims	1-19
	No: Claims	

2. Citations and explanations

see separate sheet

Re Item V.

The following documents are referred to in this communication:

- D1 : WO 02/100024 A (MARCONI COMM INC) 12 December 2002 (2002-12-12)
 D2 : US 2002/174207 A1 (BATTOU ABDELLA) 21 November 2002 (2002-11-21)

1. INDEPENDENT CLAIMS 1,15,16,17,18,19

The present application does not meet the criteria of Article 33(1) PCT, because the subject matter of claim 1 does not involve an inventive step in the sense of Article 33(3)PCT.

Document D1, which is considered to represent the most relevant state of the art to the subject matter of claim 1, discloses (see page 2 lines 2-14, page 4 line 16 - page 5 line 2, page 5 line 9 - page 6 line 6) a communication system comprising an SDH network and an Ethernet network, the SDH network having a management system to monitor the functionality of the network elements and being arranged to transport Ethernet information in SDH format, where the SDH network comprises a network element arranged to convert the SDH format Ethernet information into Ethernet information.

The subject-matter of independent claim 1 differs from the disclosure of D1 in that the SDH network element making the conversion can request the status of the Ethernet network element, in order to allow the SDH management system to update the status information on the functionality of the SDH network elements and Ethernet network elements.

The problem to be solved by the present invention may therefore be regarded as that of avoiding to extend the SDH network in its entirety to the Ethernet remote site, in order to determine if the Ethernet network elements are functioning correctly.

In view of D2 (see paragraphs 3,4,8-12,106) the solution proposed in claim 1 of the present application cannot be considered as involving an inventive step (Article 33(3) PCT)

The features disclosed in D1 and D2 would be combined by the skilled person, without exercise of any inventive skills in order to solve the problem posed. The proposed solution in independent claim 1 thus cannot be considered inventive (Article 33(3) PCT).

The same reasoning applies, mutatis mutandis, to the subject-matter of claims 15-19

2. DEPENDENT CLAIMS 2-14

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING
AUTHORITY (SEPARATE SHEET)**

International application No.

PCT/EP2004/051279

The subject matter of dependent claims 2-14 is not inventive (Article 33(3) PCT) for the following reasons:

- 2.1 The features of claims 2,3,4,6,8,10,12-14 are a matter of normal design procedure for the man skilled in the art of SDH transmission networks
- 2.2 The features of claims 5,7,9,11 do not add anything inventive to the subject matter of the independent claims